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Canada, Railways, Canals and
Telegraph Lines, Standing Committee, 1952

HOUSE OF COMMONS

Sixth Session—Twenty-first Parliament

1952

Government
Publication

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STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES

Chairman: H. B. McCULLOCH, ESQ.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 6

BILL 194

An Act to amend the Aeronautics Act

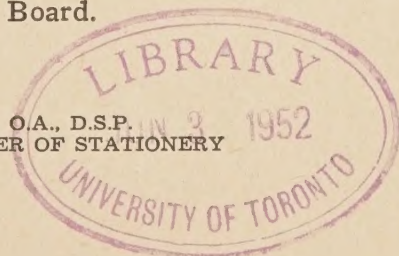
MONDAY, MAY 26, 1952

WITNESSES:

Mr. W. J. Matthews, Q.C., Director, Administration and Legal Services,
and Mr. J. R. K. Main, Assistant Controller of Civil Aviation, Department of Transport.

Mr. J. R. Baldwin, Chairman, Air Transport Board.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952



ORDERS OF REFERENCE

TUESDAY, May 20, 1952.

Ordered,—That the following Bill be referred to the said Committee:
Bill No. 194, An Act to amend the Aeronautics Act.

THURSDAY, May 22, 1952.

Ordered,—That the name of Mr. Graydon be substituted for that of Mr. Higgins on the said Committee.

FRIDAY, May 23, 1952.

Ordered,—That the following Bill be referred to the said Committee:
Bill No. 239 (Letter R-6 of the Senate), intituled: "An Act respecting The Burrard Inlet Tunnel and Bridge Company".
Attest.

LEON J. RAYMOND,
Clerk of the House.

REPORT TO THE HOUSE

MONDAY, May 26, 1952.

The Standing Committee on Railways, Canals and Telegraph Lines begs leave to present the following as its

SIXTH REPORT

Your Committee has considered Bill 194, An Act to amend the Aeronautics Act, and has agreed to report the said Bill with an amendment.

A copy of the evidence taken is appended hereto.

All of which is respectfully submitted.

H. B. McCULLOCH,
Chairman.

MINUTES OF PROCEEDINGS

MONDAY, May 26, 1952.

The Standing Committee on Railways, Canals and Telegraph Lines met at 11 o'clock a.m., the Chairman, Mr. H. B. McCulloch, presiding.

Members present: Messrs. Browne (*St. John's West*), Carroll, Carter, Chevrier, Dewar, Fulton, Gillis, Graydon, Green, Herridge, Macdonald (*Edmonton East*), MacNaught, McCulloch, Mott, Murray (*Cariboo*), Mutch, Nickle, Noseworthy, Pouliot, Rooney, Stuart (*Charlotte*).

In attendance: Mr. W. J. Matthews, Q.C., Director, Administration and Legal Services, and Mr. J. R. K. Main, Assistant Controller of Civil Aviation, Department of Transport; Mr. J. R. Baldwin, Chairman, Air Transport Board.

The Committee proceeded to consideration of Bill No. 194, An Act to amend the Aeronautics Act.

Messrs. Baldwin, Matthews and Main were called and questioned.

Subclause (1) of clause one was adopted.

Mr. Green moved that the proposed subsection (8) of section four of the *Aeronautics Act* be amended by striking out all the words after the word *property* in line 12 thereof and substituting therefor the words *as a result of the regulation*.

After discussion, and the question having been put on the said motion, it was negatived.

Mr. Graydon moved that the proposed subsection (8) of section four of the said Act be amended by the insertion of the word *directly* between the words *is* and *attributable* in line 14 thereof.

After discussion, and the question having been put on the said motion, it was negatived.

On motion of Mr. Mott, it was agreed that the proposed subsection (9) of the said section four be amended by the deletion of the words *one year* in line 18 thereof and the substitution therefor of the words *two years*.

Subclause (2) of clause one, as amended, the preamble and the title were adopted.

The Bill was adopted and the Chairman ordered to report it to the House.

At 12.55 o'clock p.m. the Committee adjourned to the call of the Chair.

A. L. BURGESS,
Clerk of the Committee.

EVIDENCE

MAY 26, 1952.

11.00 a.m.

The CHAIRMAN: Gentlemen, we have a quorum, and we are on Bill No. 194, an Act to amend the Aeronautics Act.

Hon. Mr. CHEVRIER: We have here this morning Mr. John R. Baldwin, chairman of the Air Transport Board and with him Mr. Ken Main and Mr. W. J. Matthews.

The CHAIRMAN: Section 1?

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. (1) Subsection one of section four of the *Aeronautics Act*, chapter three of the Revised Statutes of Canada, 1927, is amended by adding thereto the following paragraph:—

(j) the height, use and location of buildings, structures and objects, including objects of natural growth, situated on lands adjacent to or in the vicinity of airports, for purposes relating to navigation of aircraft and use and operation of airports, and including, for such purposes, regulations restricting, regulating or prohibiting the doing of anything or the suffering of anything to be done on any such lands, or the construction or use of any such building, structure or object.

(2) Section four of the said Act is further amended by adding thereto the following subsections:

“(5) In addition to any other mode of publication prescribed by law, a copy of every regulation made under the authority of paragraph (j) of subsection one (in this section called a “zoning regulation”) shall be published in two successive issues of at least two newspapers serving the area wherein the airport in relation to which the regulation was made is situated.

(6) A plan and description of the lands affected by a zoning regulation shall be signed and deposited in the same manner as a plan and description is by subsection one of section nine of the *Expropriation Act* required to be signed and deposited, and a copy of the regulation shall be deposited with the plan and description.

(7) Where a regulation deposited as required by subsection six is amended, a copy of the amendment shall be deposited in the same office where the regulation amended thereby was deposited, but a further plan and description need not be deposited unless additional lands are affected by the amendment.

(8) Every person whose property is injuriously affected by the operation of a zoning regulation is entitled to recover from Her Majesty, as compensation, the amount, if any, by which the property was decreased in value by the enactment of the regulation, minus an amount equal to any increase in the value of the property that occurred after the claimant became the owner thereof and is attributable to the airport.

(9) No proceedings to recover any compensation to which a person may be entitled under subsection eight by reason of the operation of a zoning regulation shall be brought except within one year after a copy of the regulation was deposited pursuant to subsection six or seven."

Mr. MACDONALD: Mr. Chairman, with respect to Bill No. 194 providing certain restrictions within an airport area, I know that the minister is very conversant with the situation as it affects the municipal airport located within the city limits of the city of Edmonton. The city has always collaborated with the Department of Transport officials in connection with all new construction relative to this airport and I believe these regulations are urgently necessary in all airport locations; but I do not think they are very much different from the restrictions which the city of Edmonton has been observing for the past several years.

I think I am interpreting the wishes of the residents of the city of Edmonton when I say they are of the opinion that the municipal airport in Edmonton should be moved from its present location just as soon as possible. They also feel that the costs of such removal should be borne by the federal government because the aircraft facilities are more or less a national requirement rather than a local necessity. This zoning will be helpful and we appreciate that with the defence requirements at the present time the minister has given some good consideration to representations that have been made to him from time to time with regard to Edmonton municipal airport, but we feel that no matter what is done, whether it is zoning or whether they change the location of the runways or whatever action is taken with regard to this airport, eventually it has got to be relocated. When that time comes I sincerely trust the minister will give every consideration to facilitating the removal of this airport from its present location to a location outside the city limits or to some location where some relief will be given to the anxiety of the people of Edmonton with regard to aircraft taking off and landing in their midst—in the centre of the city.

Mr. CARROLL: Did the dominion government supply any funds for the location of that?

Mr. MACDONALD: At the present time there have been representations made to the government with regard to the facilities at the Edmonton municipal airport. Military aircraft, while they are bringing Namao up to standard are using the facilities of the Edmonton municipal airport. I understand that the minister or the government has informed the city authorities that they will move the military flying to Namao just as soon as facilities are provided; but I would like to ask the minister, Mr. Chairman, to give consideration in planning for facilities at the airport, zoning restrictions and otherwise, to the eventual movement and relocation of the Edmonton municipal airport to another location.

Hon. Mr. CHEVRIER: I can tell Mr. Macdonald that we did give it careful consideration and we still are. We did hope at one time that it might be possible to move the airport to Namao but National Defence has indicated that they need that airport for their own purposes and are not willing to relinquish it. That means that if we were to move it we would have to conduct a survey to locate another site; and we have not done that up until now. We feel that if all military operations at the Edmonton airport were to be moved to Namao the position would be considerably relieved, and I do not think there would be the same necessity for movement; and it was with that end in view that we asked National Defence to review its position to see if it could not move the traffic to Namao. I understand that is being done gradually so I can assure you that we have the problem very much before us. In fact, one of the officers who is giving evidence today was the district controller at

Edmonton for a long time. He knows the area, he knows the circumstances, and I am sure will lead us to consider with sympathy any of the points that are brought up.

Mr. MACDONALD: Just one further question at the moment. These zoning regulations are going to also embody the Namao base? They apply there too?

Hon. Mr. CHEVRIER: Well, I think gradually we may have to apply them there. The intention is first of all to apply them to the main transcontinental airports and, of course, the main military airports.

Mr. MACDONALD: Would you consider Namao a main military airport?

Hon. Mr. CHEVRIER: Yes.

Mr. MURRAY: Would the minister say that the Edmonton airport was unsafe?

Hon. Mr. CHEVRIER: Oh, I would not say that.

Mr. MURRAY: For 'planes to land on? Or is it likely to be?

Hon. Mr. CHEVRIER: No, I would not say that.

Mr. MURRAY: It is one of the best in the whole country?

Hon. Mr. CHEVRIER: It is an excellent airport.

Mr. MURRAY: A great international airport where they take off for Asia, the United States, and elsewhere. Surely it would not be a very expensive business to impose the regulations on that air field?

Hon. Mr. CHEVRIER: We do not think it would be, but as I indicated in the House each airport has to be considered by itself, and it may be that the application of these three restrictions to certain airports will mean no expenditure of funds at all. It is pretty difficult to ascertain until an examination has been made. We have dealt with two or three major airports but we have not gone over all airports to which we think these regulations or restrictions should apply.

Mr. MOTT: Mr. Chairman, I think this is a step in the right direction. However, there is one thing I do not understand here in regard to this bill. We are just speaking of airports on land. Now, would this have anything to do with zoning on water? There are places where we have seaplanes landing and the hazards there have been terrific. People have been able to put up more hazards in the way and yet there is no zoning mentioned here for seaplanes.

Hon. Mr. CHEVRIER: Well, an airport as I understand it includes a seaport for aircraft but the zoning would hardly apply to a seaport unless there were buildings within the 150 foot limit I referred to earlier. In so far as the approaches to the base are concerned there would be no contravention I would think, or I cannot imagine any contravention of the regulations in so far as they concern the flight ways and the sides of the airways.

Mr. MOTT: The point I am coming to is this, and I have had some experience with something similar. On the Fraser river we were trying to keep a certain section clear more or less for a private landing. When they had the big Cansos landing on the river all of a sudden the power company came along and put lines across. We found that we could not stop them because there was no zoning. They just put the power lines across and they cut out any seaplane landing there at all. That has happened and there is nothing in this bill that would correct it.

Hon. Mr. CHEVRIER: Perhaps we could have counsel give evidence on that or Mr. Baldwin. I am informed it is covered by the bill.

Mr. GREEN: Could we have a general statement?

Hon. Mr. CHEVRIER: I think Mr. Baldwin would do that.

Mr. W. J. Baldwin, Chairman, Air Transport Board, called:

The WITNESS: In order to show how the zoning itself would work at a typical airport we have prepared a three-dimensional plan centred on Dorval—which we thought would be the simplest method of showing what the zoning meant in effect. You will see from that that there are three sloping lines or surfaces imposed in the zoning. The first is a horizontal plane which is imposed around the whole airport at a height of 150 feet, centred about the centre of the airport—a radius of 13,000 feet. That is represented by the yellow surface.

Mr. GREEN: How many thousand feet?

The WITNESS: 13,000 feet—that is a little over 2 miles.

The CHAIRMAN: From the centre?

The WITNESS: From a point selected as the centre of the airport.

Mr. GREEN: Between 2 and 3 miles?

The WITNESS: That is right—about $2\frac{1}{2}$ miles.

This may vary from airport to airport. Then any runway used for instrument flying is zoned on the basis of a quadrilateral which is 1,200 feet at the end of the landing point and 4,000 feet in width 10,000 feet out from the runway. The zone line there is a sloping surface which goes up 1 foot for every 50 feet you go outward from the end of the runway. That is represented by the blue faces on the chart, the sloping faces running out from the end of each runway.

Finally, to provide for a relationship between the blue, the yellow, a sloping line represented by red is provided which goes up from the side of the runway or approachway on a ratio of 1 foot upward for every 7 feet outward and sideways from the end of the runway or approachway until it coincides with the yellow plane. This is the standard system of zoning that is recommended by the International Civil Aviation Organization and it is the basis on which it is intended to work in regard to each Canadian airport. There may well be certain modifications—in other words at some airports we may have only two or four blue surfaces instead of six, depending on the runway pattern of instrument flightways. Basically, this would be what is intended.

Mr. GREEN: How does that compare with the zoning regulations which were in effect during the war?

The WITNESS: Mr. Main, the assistant controller of civil aviation could answer that I think.

Mr. MAIN: They are very similar, sir, except that during the war the approach ways were parallel. You will notice that these flares at the slope are the same; but we did not have 13,000 foot planes, consequently the approaching ways were parallel instead of flaring out. Otherwise, they were substantially the same.

By Mr. Browne:

Q. That blue plane extends 10,000 feet beyond the curtain?—A. No, beyond the end of the runway.

Q. What do you call that?—A. It is where the pavement ends.

Q. Can you point to a place which would be designated as the end of the runway?—A. The black mark represents the pavement, and you start your blue from there.

Q. How much beyond the 13,000 foot radius would it be?—A. It would vary, according to the position of the runways in each airport; in some cases it might go slightly beyond, while in other cases it might not go as far as 13,000 feet.

Hon. Mr. CHEVRIER: In this case I take it that it does not go beyond it. Three of the runways at Dorval are that way, and in the case of two of them it does go beyond.

By Mr. Graydon:

Q. Is this zoning program intended to cover airports which are known as ILS?—A. Primarily, yes; the intention is to protect airports which are used for instrument flying.

Q. What about the ILS airports in the United States? Are they zoned on anything like a similar basis to which you propose to zone the ILS ports here?—A. Yes. The legislative background is somewhat different, however, due to their different constitutional basis; but the outcome is similar.

Q. Will their zoning regulations be on a completely similar pattern right across the country, or are they governed by state laws?—A. It is governed by state and municipal laws. The civil aeronautic authority in Washington, however, are attempting to do their very best to achieve a uniform pattern in co-operation with the states and municipalities.

Q. That means there will be some difference in the pattern followed in the United States, whereas in Canada we will follow the same pattern right across the country?—A. Yes, that is fundamentally correct.

By Hon. Mr. Chevrier:

Q. Are not the regulations which you have outlined the same as those which were approved by ICAO?—A. Yes.

Q. Is not the United States bound by that same pattern?—A. They are recommended practices rather than imposed regulations.

By Mr. Graydon:

Q. On that question of United States air fields, will there be air fields in the United States which will have less restrictive zoning regulations than our air fields?—A. It is possible, sir, that there might be U.S. air fields which would have no zoning restrictions on them.

Q. You say it is possible that there might be air fields which would have no zoning restrictions on them?—A. Yes.

Q. Well then, aircraft operating as they do internationally across the border may find themselves in varied conditions, in so far as landing is concerned.

Mr. GILLIS: Is this not an attempt to prevent what happened in the United States? There they established airports 10 years ago and then the cities extended and went into the airport, practically with the result that in the United States in the last few months they have had planes dumped into residential sections rather than into airports. Is this not an attempt now—and I think a proper one—to give authority to the minister to prevent the expansion of the population too close to the airports, something which would create a hazard of planes coming in and destroying houses and so on? I think it is a very good one regardless of what happened in the United States, and I think we have got to try to protect our own air fields and get the necessary authority to do so.

Hon. Mr. CHEVRIER: I think it is; and if one should go around Malton, Dorval, or the Edmonton air strips, he will see immediately how industrial and other buildings are moving around the airports. So if we move quickly enough, we can do this at a fairly reasonable cost to the country; but if we wait and wait, we might find ourselves in difficulties.

Mr. NOSEWORTHY: Are there many of our airports now around which buildings have been built too closely, and where expropriation will have to be made?

Hon. Mr. CHEVRIER: I think I explained in the House that on the first zoning area, the one represented by the yellow horizontal plane, there would be no buildings which would have to come down at Malton and Dorval; and while I could not speak about every airport, I think, a fortiori it would apply to the other airports.

Mr. MAIN: So far as the department is concerned, we are not aware of any place, with the possible exception of one building at Vancouver, a school, which is above this 13,000 foot plane. At Vancouver there are two airports, a water and a land port, and I think it will be necessary to place the center of the 13,000 foot angle in such a position that no buildings will obtrude above the 13,000 foot plane.

By Mr. Pouliot:

Q. In Winnipeg the airport is near the centre of the city, is it not?—A. Somewhat.

Q. Is it not very near?—A. Part of it is within the municipality.

Mr. MACDONALD: In view of Mr. Main's statement, am I to understand that in the city of Edmonton there is no existing structure that is going to be affected by this re-zoning?

Mr. MAIN: I am not aware of any.

Mr. POULIOT: We know very well that in Winnipeg the airport is not very far from the centre of the city.

Hon. Mr. CHEVRIER: It would be more than $2\frac{1}{2}$ miles, and these restrictions on the horizontal planes apply within the radius of $2\frac{1}{2}$ miles.

Mr. DEWAR: I know, because I just came from there.

The WITNESS: Right from the Canadian National hotel, right down town.

Mr. POULIOT: How far would that be from the station?

The WITNESS: The station is not very far from there.

Mr. MAIN: I do not know of any buildings at Winnipeg which stick up above into the 13,000 foot plane. I am reasonably sure of that. I do not know of any buildings at Winnipeg which do not comply with the restrictions imposed.

Mr. GREEN: What would happen where there is a building, such as the school which you mentioned, which is too high?

Mr. MAIN: The international requirements would call upon us to light that school. It occasionally happens that there are natural objects such as mountains and so on which obtrude above the plane, and with which you cannot do anything except to light them. Therefore the only thing to do is to light them or mark them. But the international regulations also suggest that in so far as new buildings are concerned, they should not be permitted to go up above that plane.

Mr. GREEN: The regulations will only apply to new buildings and not to any existing buildings?

Mr. MAIN: So far as the slope is concerned, it is not expected that anything will stick up above that slope.

Hon. Mr. CHEVRIER: Any existing buildings would be expropriated in the ordinary course, and these regulations would apply to the future.

Mr. GRAYDON: Have you made any allowance in connection with your slope for the new aerial jets? Will there be a difference in respect to the slope in connection with the taking off and landing where jet planes are concerned?

Mr. MAIN: So far as civil aircraft are concerned, it does not appear at the present time that any change will be necessary with the fifty to one slope. However, I believe that in the case of some military aircraft it may be necessary to make it somewhat flatter.

Mr. GREEN: Would that not alter your whole picture? I would think that most airports in Canada would have to be such that military planes could use them.

Mr. MAIN: Not necessarily. In respect to some military airports, the military themselves are asking for flatter slopes, and I believe they intend to confine their aircraft which have certain take-off characteristics to certain airports.

Mr. GRAYDON: What is the difference, technically, in the angle of a propeller plane take-off, and that of a jet, generally speaking? What is the difference in the angle?

Mr. MAIN: So far as civil aircraft are concerned, there is none. The taking-off characteristics with the approved load are very similar. However, the jets or the pressurized aircraft—and all jets will be pressurized—can come down a little faster. They can put on their flaps and come down at a very steep angle; so that their approach may be at a little less angle. But the take-off is very similar, with the approved load. That will vary, of course, with the load.

By Mr. Green:

Q. May we have an explanation with respect to the compensation provisions?

Mr. MATTHEWS: Mr. Chairman, the compensation provisions are set out in sub-clause 8, which reads as follows:

(8) Every person whose property is injuriously affected by the operation of a zoning regulation is entitled to recover from Her Majesty, as compensation, the amount, if any, by which the property was decreased in value by the enactment of the regulation, minus an amount equal to any decrease in the value of the property that occurred after the claimant became the owner thereof and is attributable to the airport.

The principle followed there is to compensate anyone whose property is injuriously affected by reason of the operation of the regulations. That follows the principle of the Expropriation Act and provides for compensation. There is also the principle that if the property is increased in value by reason of the airport, the compensation to the owner is reduced by the amount of such increase in value. I think that is all there is to the compensation provision.

Mr. GREEN: What worried me was this: Judge Carroll will know more about it than I do.

Mr. CARROLL: Oh no!

Mr. GREEN: As I understand it, the normal provisions for expropriation, that is, for expropriating land, are that the Court would take into consideration any increase in the value brought about by reason of the construction of the airport. But in this case, this particular section, you are not compensated for the land. In other words, you are not taking the land over; however, you are putting restrictions on the land and it seems to me that is completely different damage to damage which would result from the taking over of the land itself. And yet, you are applying against that damage what increase value may have been caused to the land by the installation of the airport. I do not see how you could correlate the two. That is what bothers me. For example, damage by reason of these regulations may be, say \$1,000, and yet the land might be worth \$50,000 and the benefit to the land by reason of the airport may be \$10,000; well, under those figures, then the owner could get absolutely no compensation.

Mr. GRAYDON: He might owe the government money before he is finished.

Mr. GREEN: He may not get any compensation for that matter and yet his use of the land there is restricted; because of this wording, under that section he could get nothing. It does not seem to me that that is fair. I would like to know how the officials interpret that.

Mr. MATTHEWS: That is a principle of the Exchequer Court Act respecting property expropriation. If there has been any increase in value through the construction of public works that all has to be taken into account.

Mr. GREEN: Yes, where you really are expropriating land. I could understand that if you have taken over a building, but here you are not expropriating a building at all; and you are putting a blight on the land by bringing it under regulations which cut the value of the land; and I think you are taking away from this damage something that has no relation to the damage that is caused by the regulations. I do not think that the two fit in. That is what is bothering me.

Mr. GILLIS: You are compensating him for his original investment, isn't that it?

Mr. GREEN: No.

Hon. Mr. CHEVRIER: In the first place, let me deal with the details of this. In the first place there could not arise a case where a claimant would owe the government any money. It is ridiculous to even suggest that.

Mr. GREEN: I did not even suggest it.

Mr. GRAYDON: But I did.

Hon. Mr. CHEVRIER: Let me say to my friend then that I do not think that point is well taken, because it would not be compensation. Now then, there are a number of cases which could arise under this legislation. I can think of two that are fairly clear in connection with this enactment. One is a farmer with agricultural land who has nothing at all in the way of buildings, no buildings on this land, and who suddenly finds that there is an easement over his property because of this legislation, the easement being 1,000 feet above the land—it might be 200 feet, I don't know—it would depend on each individual airport; but assume that there are no buildings on this man's land; under this legislation he might get some compensation if the government or the crown should take an easement under restricted area two, or under restricted area three. And now, how would the Exchequer Court go about measuring the value of this navigation right? I like to call it that because I think it is an easement, an aerial easement? I don't know, but they put "X" dollars on it. And they would perhaps take the property and apply the portion of the value by which the property had increased and reduce it over the navigation right. I do not know what it would come to, but that is one case that I can visualize.

Mr. CARROLL: I will take another case, Mr. Chairman. Suppose you find that the gentleman who had to do with case finds that in a certain airport area there is a building too high; would not the department have the right to order the destruction of that building or part of it?

Hon. Mr. CHEVRIER: Yes, but that would be quite a different principle.

Mr. CARROLL: I know.

Hon. Mr. CHEVRIER: Yes, that would be simple expropriation to which the ordinary rule of expropriation would apply. If they could not agree they go to the Exchequer Court.

Mr. GREEN: Here is your farm case. In the case of the farmer, he would be caught by this restriction in subsection 8, I think, because if he had, say \$1,000 damage by reason of the restrictions, then the way the section is worded the court would have to go back and find out whether or not his farm had been increased in value by reason of the airport, and if it had been increased in value, then they would deduct that increase from the \$1,000 for the air restriction.

Hon. Mr. CHEVRIER: No, they would deduct the proportion, I would think, the proportion that relates to the size of the easement. They would not deduct the value of the whole farm, because if they did that, then in some cases you would have the farmer owing the government money.

Mr. GREEN: Even if they insisted on deducting a proportion, I do not think the two are on the same level. I think they are two entirely different things and you are applying an arbitrary ruling. There is another very unfair feature about it which is that if the owner of that farm happened to have bought it after the airport was established then he is not affected by this reduction because it says, "the claimant became the owner thereof after." In other words, if a man happened to have bought that farm two years ago and the airport was put in ten years ago, then the farmer would not have his damages cut down; but if he is a man who has had that farm for 20 years then he does have his damages cut down. I think you are unnecessarily tying the hands of the Exchequer Court judge. I should think it would be wiser simply to leave it to the court to say what the damage is and work out the principle.

Mr. GILLIS: You are getting it still more complicated.

Mr. GREEN: I think it is restricted in this section.

Mr. GILLIS: We have now, closer than $2\frac{1}{2}$ miles to Sydney airport, a drive-in theatre under construction. Now, providing it is necessary to eliminate that drive-in theatre because of the zoning regulations it would cost—the original cost of establishing a drive-in theatre is not so great, but the anticipated revenue of that theatre is going to run into a lot of money maybe in the course of a year. Providing it is necessary now for the department to say that theatre is too close and you have got to move it away from this zone, how would the people who are the sponsors of that project be compensated—on the investment they have in the drive-in theatre at the present time or on the anticipated revenue which would accrue.

Hon. Mr. CHEVRIER: Well, Mr. Gillis, I would rather have counsel answer that question; but I would think, first of all, that a drive-in theatre would not be 150 feet high.

Mr. GILLIS: But it is within $2\frac{1}{2}$ miles of the airport.

Hon. Mr. CHEVRIER: Well, for one thing, it would not be 150 feet high; at least, I have never seen any that are that high, certainly.

Mr. BROWNE: It would probably be not more than 40 or 50 feet high.

Hon. Mr. CHEVRIER: No, probably not more than 40 or 50 feet high, it certainly would not be 100 feet, so there would be no offence against the regulation which applies only to buildings which are over and above a certain height.

Mr. GILLIS: But that still leaves this within the $2\frac{1}{2}$ mile zone.

Hon. Mr. CHEVRIER: Yes, it is still within the $2\frac{1}{2}$ mile area.

Mr. MURRAY: Well, Mr. Chairman, let us suppose someone builds a church with a steeple on it; or suppose you have a power line.

Hon. Mr. CHEVRIER: We would have to stop that.

Mr. MURRAY: Or, let us say a big chimney.

Hon. Mr. CHEVRIER: Well, there are a number of chimneys that would have to come down in some of these airports. I think there is one at Malton.

Mr. MURRAY: Surely we could cover that in order to make aviation safe in Canada; our Canadian airports should above all be the safest in the world.

Hon. Mr. CHEVRIER: The question raised by Mr. Green is one which was given careful consideration; should the matter of compensation be written in the Act or should it not, and if it is not written out in the Act, I think it would be much more serious. Now, then, the next point is this; there is no precedent in Canada for paying compensation in cases like this. There is precedent in

Canada for paying compensation for taking other people's property over, but we are not doing that, we are not taking buildings and property over; we are taking easements and navigation rights especially; and we are breaking new ground. The United States do not pay one cent compensation for cases like this. In the United Kingdom it is set out in a statute. And we thought, so there will be no difficulty about hereafter, it would be much better to spell it out in such general terms as it is in here, so that the Exchequer Court can within these broad terms adjust damages.

Mr. CARROLL: But in favour of the landowner, of the property owner.

Hon. Mr. CHEVRIER: Quite.

Mr. GREEN: It is not in favour of the landowner.

Mr. CARROLL: Well, it is of the property owner.

Mr. GREEN: This is not in favour of the property owner, it is against him because it says: "minus an amount equal to any increase in the value of the property that occurred after the claimant became the owner thereof and is attributable to the airport". So they could only apply it against him. He has something deducted under that particular legislative restriction. What objection would there be to simply writing the section so that it would read: "Every person whose property is injuriously affected by the operation of a zoning regulation is entitled to recover from Her Majesty, as compensation, the amount, if any, by which the property was decreased in value by the enactment of the regulation."

Now, there you would have it clearly set out that the claimant must prove that he has lost value by reason of this zoning regulation; and what is the objection to leaving it to the court to decide what that loss in value amounts to. I think, really, it is going to be very, very difficult for any owner to get an award, or much of an award for damages arising because of these regulations. I do not see why he should have his hands tied by the last 2½ lines of this section.

Hon. Mr. CHEVRIER: May I point out, Mr. Green, that in the Exchequer Court of Canada there is a similar provision to that, rule 50, which reads as follows:

50. The court shall, in determining the compensation to be made to any person for land taken for or injuriously affected by the construction of any public work, take into account and consideration, by way of set-off, any advantage or benefit, special or general, accrued or likely to accrue, by the construction and operation of such public work, to such person in respect of any lands held by him with the lands so taken or injuriously affected.

Mr. GREEN: I have that section here before me. To make the case parallel you would have to say that you would deduct from this damage for the zoning regulation whatever benefit he got from the zoning regulation. You are not doing that, you are saying you are deducting from the damage caused by the zoning regulation what benefit his land got from the airport as distinct from benefits by the zoning regulation. I mean the two things as I see it are on different levels.

Mr. MURRAY: At the Fort St. John airport where there is oil drilling going on around the edges of that airport, I wonder if those oil derricks would not be in the way. Will this legislation cause them to stop drilling or require them to move their derricks?

Mr. MAIN: It is conceivable that that might happen, although I am not aware that the problem has arisen. However, an effort is always made to co-operate with the oil companies and so far I might say that they have always co-operated.

Mr. MURRAY: Does that mean they would have to take up their drilling rigs?

Mr. MAIN: Either they would place them in such a position that they would not interfere with navigation, or it might be conceivable that we would close up one of our runways for a certain period of time to allow them to drill.

Mr. NICKLE: The height of those drilling derricks would be well under 150 feet.

Mr. MAIN: At any rate they are not permanent structures.

Mr. MACNAUGHT: I would like to make one inquiry concerning the Summerside airport on Prince Edward Island. This airport is quite close to the town of Summerside and in the town there is a very high water tower from which the city gets water pressure. Is there anything in these regulations that would compel the town to destroy that water tower?

Hon. Mr. CHEVRIER: Not in the regulations, but under the Expropriation Act; if it is 150 feet high we would require the town to take it down and we would have to pay compensation under the ordinary rules.

Mr. MACNAUGHT: If you did that they would have no other method of getting their water pressure.

Hon. Mr. CHEVRIER: Well, we would have to pay the damages. They would not be affected by these regulations.

Mr. MACNAUGHT: They would not be affected?

Hon. Mr. CHEVRIER: No, we would have to take over the whole thing, that is all. Do you think the tower is more than 150 feet high?

Mr. MACNAUGHT: It is more than 150 feet high, but it may be that it is not within $2\frac{1}{2}$ miles of the airport, but I am not clear on that. I was hoping that in a case of that kind you would make every reasonable effort to come to a compromise.

Hon. Mr. CHEVRIER: That would be covered by the rules of expropriation.

Mr. BROWNE: Following Mr. Green's answer in connection with section 50 of the Exchequer Court Act, may I point out that a closer parallel would be that, if as Mr. Green points out the improvements in the land value had been attributable to the regulations. Take the case that the Exchequer Court envisaged here in section 50: a road is built through a man's property. He is entitled to compensation for the land taken to build the road, less any benefit that he may have received by the building of the road. Now, what you are doing by this new bill is to say we are going to bring in a regulation that nobody shall be able to build within one hundred feet of the road. Is he not entitled to compensation for the damage which he suffers by reason of such a regulation?

Hon. Mr. CHEVRIER: We are not stopping him from building at all. He can build provided his building is not higher than 150 feet and he can build all he likes over here (indicating) at the end of the flightway, provided that he does not rise more than one foot in every 50 feet out. He can build 250 feet out in some areas if he wants to, but he can only build 150 feet in other areas. He may have plans to build a 250-foot apartment and he will not be stopped from putting it at one point but he will be stopped from putting it at another in the approach area, and he will be entitled to an amount of damages, if he can say that he is affected injuriously. I do not know what it would be, it will be up to the court to determine it—and we think we should leave the last part of this clause, "minus the amount equal to any increase in the value of the property..."

Mr. CARROLL: This whole law of compensation gets us away from the matter of speculation. If I heard that there is a mine going to be opened up, say

10 miles away, and I go out and pay \$50 an acre for land and the mine is opened, I do not get the increased value of that land under the ordinary rules of compensation, and the reason is to prevent speculation.

Mr. GREEN: In the case you mentioned a man could probably get very little back anyway because he could not build another couple of stories on his apartment, yet against what damage he can get you take any increase in the value of the land, as distant from the building, which was caused by the airport being developed, even though the airport may have been in there 10, 15 or 20 years before. The result will be that the man cannot get any compensation because of this restrictive clause.

The WITNESS: The officials drawing up this clause felt that the provision in the Act was a quite fair one because it is in most cases only on account of the existence of the airport that the apartment building is required there in the first instance.

Mr. BROWNE: Is that a fair statement to make today in view of housing conditions?

The WITNESS: I think in almost every case the building immediately surrounding airports is entirely because of the existence of the airport, with a few exceptions.

Mr. MACDONALD: I would not say that that would apply to Edmonton,

The WITNESS: In that case there would be no increase in value if the airport was acquired for other purposes.

Mr. GREEN: It does not apply to Sea Island, however. In the case where people own land on the shore which they bought for purposes of building a cannery or putting in a small industrial plant where there would be dockage, they would be caught by this provision, and they would not be able to put up a cannery or a warehouse.

Hon. Mr. CHEVRIER: But no one would put up a cannery higher than 150 feet, nor build a warehouse higher than 150 feet.

Mr. GREEN: If they come under this runway condition it would stop them.

Hon. Mr. CHEVRIER: But the question is, do they come under it. We cannot answer that because in order to get information on that it would mean surveying 112 airports and we have not done that. My guess is that under the first restriction, no airport in Canada will be affected, and in the second and third I do not think it will be very great, but I do not know.

Mr. GREEN: Of course, our problem with this section we are discussing really is to have a fair compensation provision; I do not think many people will be able to get any compensation whatever under this provision because claims would be very hypothetical, but my submission is that tying that additional restriction on will make the section unfair.

Mr. BROWNE: And unworkable. Supposing a man buys property near an airport now. There is nothing to be taken off because it has reached, or we can assume it has reached, its full value. It is only the original owner that that can be applied to.

Mr. GREEN: The new buyer has a clear claim for whatever damages are caused.

Mr. GRAYDON: I think this in effect means that you are giving with one hand and taking away with the other, and I would think that the government would not be losing anything very seriously, although it would be fair to the owners, if the latter part of that clause were deleted. In addition to that it seems to me it is not worded properly, in any event, because it seems to me when it speaks of the value of the property that may mean the entire property that is owned, even though it may not be covered by the aerial easement, and

I would think that that part of the bill should certainly only cover the area of this property directly affected by the aerial easement concerned. That draughtmanship would certainly seem to me that his whole property could be set off against the part which is affected prejudicially by the zoning regulations. Now, I do not think that is fair and I would suggest first of all that that part come out, certainly because of the restricted portion which is in here now.

Mr. MATTHEWS: If I might have a word, Mr. Chairman, on that point, I think the intention of the section is to cover the case of the landowner of land that is in the vicinity of the airport and by the establishment of the airport the land increases in value. That used to be called the unearned increment. It is to the benefit of the landowner. The sole reason for the increase in value is the expenditure of public money on the airport, and when zoning regulations are applied there may be a diminution in the value of his property, but one is set off against the other, and I think it is very fair because he should take the rough with the smooth, and if he has had an increase in the value of his property attributable to the airport, then I think he should stand any loss there might be in connection with zoning regulations. I think it is fair and it follows the provision of the law now in expropriation cases. The minister has read the Exchequer Court provision, section 50. The Bill covers injurious affection. These words "injuriously affected" are taken right from that Act. I think it is fair that it should be so, that if the government is going to expend money on the establishment of an airport which brings about an increase in the value of the land around it, the landowner should stand the loss in connection with the zoning regulations. Another thing, too, it might protect the landowner's property, it will protect it in this way, that it will establish zoning regulations so that everybody will know just what the situation is.

Mr. GREEN: This expropriation law only applies where the Crown is taking the land, that is all; it is not to meet the case where the Crown does not take the land; it is perfectly fair that there should be restriction on the value in the former case, but we are not dealing with that situation at all; we are dealing with a situation where a man is not getting his land expropriated, he is simply having a restriction put on the land.

Hon. Mr. CHEVRIER: No, no, he is not having a restriction put on the land, he is having restrictions put on above the surface of the land. That is a different thing, and there is no provision anywhere in Canada for compensation in a case like that.

Mr. GREEN: I think the mistake is in trying to tie in the land with the restriction above the surface.

Mr. MATTHEWS: It is closely assimilated to the Expropriation Act as applied to the case of the Sisters of Charity of Rockingham, where the railway expropriated a piece of their land, and because of the smoke and the noise from the passing trains the Sisters of Charity got compensation. It is a very similar case.

Mr. GRAYDON: Mr. Matthews mentioned about an increase in value attributable to the fact that the airport was situated there with government money which, as he indicated, might have the effect of increasing the value of adjoining property. Now, in the case of the Malton airport, the situation is that a major part if not all of the increase in value that came to adjoining land around the airport did not come from the fact that the airport was situated there, it came from the fact that the A. V. Roe Company came into that section and built their plant there, and that became a great industrial section.

Hon. Mr. CHEVRIER: You know as well as I do that the A. V. Roe Company would not have gone there had there not been an airstrip there in the first place.

Mr. GRAYDON: Might I point out that under this Act you could indirectly, perhaps, attribute that value to the fact that it was the airport that actually was the reason why the land increased in value. Now, I would like to be clear on that, because I do not think that because of the increasing value at every stage of development you could then attribute that to the fact that the airport was established there, all the increase in value that might take place is due to the airport. I do not think the act or the bill is clear on that.

Mr. MATTHEWS: That may be, but I take it the court would have to decide what improvement is attributable to the airport and what is attributable to A. V. Roe.

Mr. GILLIS: A. V. Roe would not be there without the government money.

Mr. GRAYDON: One other thing. I would like to have Mr. Matthews' very distinguished opinion on the matter of setting off of the entire increase for any value of a property that a farmer might have, for instance, as against the portion which is covered by the aerial easement. In my interpretation that if the man had a 200 acre farm under this bill, if only 25 acres were covered by the aerial easement, then as I read the bill the government could say: Here, his 200 acre farm has increased by so much and we will set that off against the 25 acres aerial easement.

Mr. CARROLL: There is the question then of damage by separation.

Mr. MATTHEWS: I think it does refer to the part of his property that is injuriously affected.

Mr. GREEN: It does not say so.

Hon. Mr. CHEVRIER: "Every person whose property is injuriously affected . . .".

Mr. GRAYDON: "... whose property is injuriously affected . . .". That might be taken to mean the whole property and not just the part where the aerial easement goes over.

Mr. MATTHEWS: The property—

Mr. GRAYDON: Then you say "... minus an amount equal to any increase in the value of the property that occurred after the claimant became the owner thereof . . ."

Mr. MATTHEWS: I do think that the property is the property mentioned in the first line: "... whose property is injuriously affected..." That is the only property mentioned in the section.

Mr. GREEN: That would take in all of his property. It would not be part of his property.

Mr. GRAYDON: I should think it would be much clearer if it were: "minus an amount equal to any increase in value of the property that occurred after the claimant became the owner thereof and is directly covered by that easement".

Hon. Mr. CHEVRIER: What about "... the value of the property so injuriously affected".

Mr. BROWNE: "Property" means his whole property.

Hon. Mr. CHEVRIER: "... so injuriously affected."

Mr. BROWNE: You mean the proportion?

Hon. Mr. CHEVRIER: Yes: "every person whose property is so injuriously affected . . .". If 125 acres are injuriously affected on a 300 acre farm then he would not be claiming for the other 175 acres.

Mr. BROWNE: Well if a man has property near an airport it now has a certain enhanced value and, for the sake of argument, in three or four years time you might make that recommendation regarding the airport. You are

going to take for value then the amount which the property has increased since the construction of the airport. Is that fair? If you want to make it comparable to section 50 should you not say: "... minus an amount equal to any increase in value of the property as a result of the regulations". It would seem absurd to put it this way.

Mr. GREEN: That gets it in the proper position because then you would take away from the damages any increase in value that is caused by this regulation. If the regulation makes his property more valuable you deduct the amount of the increase from his damages and then you have got the two points meeting—rather than confusing the value of the land and the amount of the damage.

Mr. MATTHEWS: I would think that there would not be many instances where you could say the value increased as a result of the regulations. It is quite the reverse. In that case a claimant would not make a claim—if it was increased in value by the regulation.

I think this section was pretty carefully considered by the Department of Justice who went into it carefully. I would not like to see this changed except perhaps to read "... value of the property so injuriously affected ..." which is undoubtedly what is meant.

Hon. Mr. CHEVRIER: I do not think it is necessary but if that will help the point raised by Mr. Graydon and Mr. Green—

Mr. CARROLL: I do not think it will help. Suppose a man has a 200 acre farm out here and you take 25 acres of it. He may be entitled to damage for separation. 25 acres have been taken away—and that may affect his other 175 acres, and the Exchequer Court would take that into consideration.

Hon. Mr. CHEVRIER: You would be taking that right away from him by adding those words.

Mr. CARROLL: In that particular case it may not arise.

Hon. Mr. CHEVRIER: As in all legislation you cannot cover all cases. There are always cases that will arise in some members' minds which are not covered by this; but broad language was used so that the Exchequer Court could use its discretion.

Mr. NOSEWORTHY: How would this regulation affect the man who had bought property say six years ago where it had already increased in value due to the fact that there was an airport there?

Hon. Mr. CHEVRIER: There would not be any reduction and the "minus" would not apply.

Mr. BROWNE: Why is it then in the case of the recent owner there is a reduction but in the case of an original owner there is not?

Hon. Mr. CHEVRIER: Because there has been no enhancement since the recent owner bought it.

Mr. BROWNE: There might be some opportunity of the recent owner to claim against the original owner?

Hon. Mr. CHEVRIER: Why should the recent owner collect from the original owner. He is going to get compensation for the restrictions as they affect him without any "minus". Nothing will be taken off.

Mr. GRAYDON: If anyone wanted to remove themselves from the operation of that second section where the "minus" provision is mentioned, they need only to sell the property to somebody else and that is an out. I don't know whether it would be proper or not—

Mr. CARROLL: He does not get anything for that.

Hon. Mr. CHEVRIER: Do you think if he did it for the purpose of avoiding the regulation—

Mr. GRAYDON: He would not do it for the purpose of avoiding the regulation; it would be just done.

Mr. NOSEWORTHY: You would get this situation. The man who sells his land to a recent buyer benefits through the sale from the increased value of the land. The man who does not sell his land but now comes under this regulation will be penalized for not having sold it. Had he sold it he would have received full benefit, but the man who held onto his land will not get the increased value of the land.

Hon. Mr. CHEVRIER: I would think, as Mr. Matthews says, the purchaser will anticipate the regulations immediately that he sees notice of them in the *Canada Gazette*, the press, and the notices that he gets from parliament. I do not think we will have many cases.

Mr. GRAYDON: May I ask another question which refers back to the matter I raised before in connection with the increased value because of industry that might be located at the particular point. Why would it not be advisable to put in before the word "attributable" the word "directly"?

I am concerned about the question of reaching back and finding increased value attributable to something other than the airport altogether.

Hon. Mr. CHEVRIER: Well, I have no objection. I do not think it means anything but if you want it in I would not oppose it.

Mr. GRAYDON: I would like to have it in.

Hon. Mr. CHEVRIER: I do not think, with the limited experience I have that a court is going to attach much importance to damages attributable to the airport or damages directly attributable to the airport. If it will help the committee I have no objection to it going in.

Mr. GILLIS: It just makes it more complicated. Here you will be getting into definitions and so on, and I think the wording you have is better.

Mr. NICKLE: Are there any cases here or elsewhere covering compensation paid for any injury done to property by a limitation on the height of buildings over that property?

Hon. Mr. CHEVRIER: I do not know of any. The municipalities pass certain regulations within their limits and pay no compensation. They limit a man in building so many feet from a street line, they regulate the cost of buildings that may be built on certain lots, and so on, and there is no compensation paid.

Mr. NICKLE: It seems to me that other than noise of aircraft which could perhaps affect livestock—cattle and so on—the only serious injury that might be done would be that of setting a limit on the height of buildings or other structures that might be erected on the property. A 150 feet ceiling is such that I do not see much possibility of any sizeable damage being done to property except along the runway strips.

Hon. Mr. CHEVRIER: That is what we think. That is what Mr. Baldwin said earlier. He thinks there will be very few cases in which it will be necessary to pay compensation.

Mr. GRAYDON: Certainly if your "minus" section is in there, there will not much compensation paid.

Hon. Mr. CHEVRIER: I was going on to say that I refer to the first restrictive regulation—under 150 feet—and with respect to the other position we will not know until we have a survey.

Mr. GRAYDON: The minister has mentioned the restrictions put on by municipalities. May I ask the officials this one question. How closely do you consult with the local planning boards or how closely have you been consulting with the local planning boards before these regulations come in?

Mr. MAIN: Very closely. In every case the obvious thing to do is to get in touch with the people and work out their requirements and ours. They have co-operated very closely. I might say that during the war I was responsible for the administration of these regulations and in every instance the municipalities co-operated 100 per cent.

Mr. GRAYDON: Are there any outstanding differences between your department and the planning board whose jurisdiction surrounds Malton airport?

Mr. MAIN: We are in very close co-operation with Mr. Bunnell, I think it is.

Mr. GRAYDON: But are there any outstanding differences that have not been resolved in connection with that?

Mr. MAIN: Not as far as I know.

The CHAIRMAN: Are there any further questions? Shall clause 1 carry?

Mr. GREEN: Are you making the amendment—putting in the word “directly”?

Hon. Mr. CHEVRIER: I have no objection, but it is up to the committee. If the committee wants it in I am not going to object.

Mr. CARROLL: What amendment is that?

Hon. Mr. CHEVRIER: Putting in the word “directly” before “attributable”.

Mr. CARTER: Would that not be restricting the limits of the jurisdiction of a judge?

Hon. Mr. CHEVRIER: I would rather have counsel speak on that. I am trying to be helpful and I do not want to be saying “no” all the time. What is your view, Mr. Matthews?

Mr. MATTHEWS: The amendment suggested by Mr. Graydon is to meet the situation of the A. V. Roe company. I suppose some lawyers before a court might argue that “directly” would be restrictive. Whether or not they could convince a court I cannot say. I would think the language is sufficiently broad to cover it now, but “directly” would cover the point raised by Mr. Graydon. It would be slightly restrictive and somebody might argue that, no doubt.

Mr. CARTER: While it might help in some cases it will be detrimental in others.

Mr. MATTHEWS: It might be.

Mr. GREEN: It would not do anything but help a claimant.

Mr. CARTER: I would think it might work against the claimant in some cases.

Mr. MATTHEWS: No, I would think this would help the claimant.

Hon. Mr. CHEVRIER: If the committee wishes it in, I am not going to object. Let us take up the sections now.

Mr. MACDONALD: Before we discuss the sections, I wish the Minister of Transport to evaluate the necessity of moving one of the greatest airports in the world, namely, the municipal airport at Edmonton, moving that field outside the city limits, and I wish he would evaluate having an early selection of a new site.

Hon. Mr. CHEVRIER: I can only add to what I have already said, that I would be glad to give the matter consideration. But I would say that if the military traffic is moved to Namao, the position at Edmonton would be eased, and there might not be the same necessity for moving as there would be if the military traffic remains there. I think the time to determine that question is when the traffic is moved; and when it is moved, I will ask the officers to take a look to see what can be done. It is a long-term project. It would have to be envisaged under all these aspects.

Mr. MACDONALD: Thank you very much, Mr. Chevrier.

The CHAIRMAN: Does section 1 carry?

Mr. GREEN: Mr. Chairman, I still think that we should strike out the words after "the property" in line 12 and substitute the words "as a result of the regulations."

Hon. Mr. CHEVRIER: Could we not consider that when we get to the section, Mr. Chairman? We are on section 1 now.

The CHAIRMAN: We are on section 1 "Powers of minister to make regulations with approval of Governor in Council."

Mr. GREEN: There is only one clause in the bill, Mr. Chairman.

Hon. Mr. CHEVRIER: Let us take up the subsections, then?

The CHAIRMAN: Shall clause 1 carry?

Carried.

Shall clause 1, subsection (5) of the Act carry?

Carried.

Shall subsection 6 carry?

Carried.

Shall subsection 7 carry?

Carried.

Shall subsection 8 carry?

Hon. Mr. CHEVRIER: I think Mr. Green has a question on subsection 8, Mr. Chairman.

Mr. GREEN: I suggest that we strike out the words after "property" in line 12 and substitute therefor "as a result of the regulation."

That would mean setting off against the damage any benefit which comes to the claimant by reason of the regulations.

Mr. MACNAUGHT: There would be no enhancement to the property as a result of the regulations.

Mr. GREEN: There might be some, as the officers have said, the result of the regulations might be to enhance it.

Mr. MATTHEWS: I think that would render the clause completely meaningless.

Mr. BROWNE: Suppose a man has property. Let us call it value A. And suppose an airport is built near it. Suppose value of his property is increased, by value B and let us say it becomes value A plus B; and suppose the zoning regulation brings about a decrease in the value of the property, and suppose we call that decrease D. Therefore the total value of the property would be A plus B plus D. Now these regulations say that you must take off B, and you take it off. The value of the property may have been going up for reasons other than the airport being built; and on the other hand, the value of money has depreciated, and I believe there would be some problem to find out exactly what B amounted to. But in any case you have to take it off now. Therefore, the formula would now be A plus B plus D minus B, and the only benefit which the man got would be a decrease as a result of the regulations.

Mr. GRAYDON: That reminds me of the binomial theorem.

Mr. BROWNE: That is what it amounts to.

Hon. Mr. CHEVRIER: Mr. Green moved an amendment.

The CHAIRMAN: Shall Mr. Green's amendment carry?

Hon. Mr. CHEVRIER: No!

The CHAIRMAN: May we have a show of hands? All those in favour of Mr. Green's amendment will please signify? All those against? I declare the amendment lost.

Mr. GRAYDON: We will do better than this after tonight.

The CHAIRMAN: May be!

Shall subsection 8 carry?

Mr. GRAYDON: I understood there was no objection to putting in "directly attributable to the airport".

Hon. Mr. CHEVRIER: I have no personal objection, and if the committee wish it done, I have no objection.

Mr. GRAYDON: I so move, then.

Mr. NOSEWORTHY: Are you sure that it would not militate against the claimant?

Mr. MATTHEWS: I should not think so. I do not think it would militate against the claimant.

Mr. CARROLL: Let us consider the case which was mentioned, the man with the 200 acre farm. Would not the injury to the remaining 150 or 175 acres not be directly attributable to the taking away of the 25 acres?

Mr. MATTHEWS: But this deals with what is taken off.

Mr. MURRAY: Some of us forget that the presence of an airport very often depreciates the value of the property, quite apart from the buildings or the obstructions or anything else, particularly a farm property.

The CHAIRMAN: Does Mr. Graydon's amendment carry?

Mr. CARTER: Mr. Graydon suggested that where there was an increase in the value it could be attributed to two factors, one, to the airport itself, and the other, to industries located near the airport. I take it that he would still distinguish between those two factors?

Hon. Mr. CHEVRIER: I think he should, however, Mr. Graydon feels that he should not. But I have no views on it, one way or another.

The CHAIRMAN: Will those in favour of Mr. Graydon's amendment please indicate? All those opposed?

Mr. GILLIS: I am opposed to it without reservation.

The CHAIRMAN: I declare the amendment lost.

Shall subsection 9 carry?

Mr. GREEN: In subsection 9, Mr. Chairman, I think the time limit is too short. It imposes a limit of one year from the time that the zoning regulations are deposited in the land registry office. Now, the deposit in the land registry office may or may not come to the attention of all the people whose property would be affected; and the same criticism applies to an advertisement in the papers. We have this situation in British Columbia; some of the owners may live in the old country, and in another case there may be an estate with a trust company as executor; therefore the matter may not come to their attention right away. I think a one year limitation for damage claims is a very short time in any event. There are practically no civilian damage claims which are restricted to that short period of time and I think the department should be willing to extend that time, let us say, perhaps to three years. If this section goes through as it is drawn, the result will be that when regulations are made and deposited, then there can be no claim established in respect to that airport after a period of one year, and everybody is out. There can be no possible damage claim after the expiration of that period of time. And another objection

I find to it is this: that as the minister indicated the other day in the House, his department would try to work out a settlement by negotiations; by negotiation they would work out a settlement rather than force the claimant to go to the Exchequer Court, which is a very expensive procedure. These negotiations cannot be carried on in a short time. They are bound to take a matter of months, and yet at the end of a year from the time the regulations are filed, all claims are out. I do not think it is reasonable to restrict that period to one year.

Mr. NOSEWORTHY: In the case where these negotiations are carried on, would not notice of them be given, when the time started to run?

Mr. GREEN: The time would start to run from the minute the plan is deposited, and I presume that negotiations would take place after that.

Mr. CARROLL: Is there a Statute of Limitations in connection with the Exchequer Court Act?

Mr. BROWNE: There is one in connection with land, and it is 20 years.

Mr. CARROLL: But is there a Statute of Limitations in connection with the Exchequer Court Act? We have in connection with various municipalities statutes of limitation, putting a limitation to the bringing of an action against a municipality, or town, and so on.

Mr. MATTHEWS: There is nothing. In the Exchequer Court Act the Crown is entitled to take advantage of any limitation in a provincial statute.

Mr. CARROLL: That is the same thing.

Mr. BROWNE: What is the reason for this? Is it just an arbitrary figure which was set by the drafters of the bill?

Hon. Mr. CHEVRIER: That is right. After this restriction they are bound. If they want to come along 5 years afterwards and get compensation, they are stuck. There should be some time limit. It is only fair that there should be.

Mr. BROWNE: Suppose you had the case of an estate where there is a beneficiary who is an infant.

Hon. Mr. CHEVRIER: Would not a guardian be appointed, and he would take action within the limited period of time?

Mr. BROWNE: But he has still to be appointed.

Hon. Mr. CHEVRIER: Surely you are not arguing against any time limit?

Mr. BROWNE: I would make it longer than one year, because an owner might be out of the country.

Hon. Mr. CHEVRIER: Well, an owner might be out of the country for six months longer than one year, so where are you going to draw the line?

Mr. MOTT: You could make it ten years, and he still could be out for another year.

Mr. NOSEWORTHY: You must have a lot of absentee landlords out there.

Mr. GREEN: You would be surprised how fast time can go after an owner dies. By the time you get an executor appointed, it is six months or perhaps longer. It takes time, and I think that one year is cutting the period too short. It means that if they are filing them for Malton or Sea Island, for instance, then at the end of one year nobody has any claim.

Hon. Mr. CHEVRIER: I do not think you would have that difficulty arising at Malton because they have been working under these restrictions for two years and have been readying themselves for it. They knew it was coming.

Mr. GREEN: I think that two years would be much more reasonable.

Hon. Mr. CHEVRIER: Then let us make it two years.

Mr. BROWNE: Would you consider elaborating that clause by saying "by notice of these regulations applying".

Hon. Mr. CHEVRIER: I will accept two years. Perhaps there is some merit in the point raised by Mr. Green. Would you care to make a motion?

Mr. MOTT: Yes. I will make the motion.

Mr. CARROLL: Yes, and I will second the motion.

The CHAIRMAN: All those in favour? All those opposed?

Carried.

Mr. GREEN: The municipalities would be paying for a portion of this compensation. I think the minister suggested that in the House. Might we have an explanation as to how that would be done? There is nothing about it in the bill.

Hon. Mr. CHEVRIER: Mr. Green raises the point about compensation to be paid by the municipalities. Perhaps Mr. Baldwin will speak to that.

The WITNESS: There are two things which the department had in mind in that regard. In the first instance, because of the point which the minister has already made, there is as a factor. A new principle, that is, the introduction of the principle of compensation in regard to zoning regulations. We would in the first instance, proceed at certain of the major federal airports in order to allow time for departmental officials to deal with the compensation problem, and the courts would deal with it as well in order to establish some sort of pattern by which we could be guided. Subsequently it would be our intention, at as early a date as possible, to discuss certain of the municipally-owned airports with the municipalities concerned with a view to working out plans for zoning under this Act for those airports, of which there are very few. And we have felt that the municipalities, since they benefit by the existence of the airports should bear some of the responsibility of compensation. But we have felt that we could not, until we had examined each airport individually and discussed it with the municipalities, set down fixed rules with regard to the proportion of the amount of compensation a municipality should take on. However, there are several criteria which would be involved, and which in our opinion would be relevant; in the first instance there would be the importance of the airport to the Federal Airways System and existing air services. Obviously there are some airports where you have air services which are based upon findings of public convenience and necessity. Such airports are more important than airports which might not serve a major airline but serve only airlines which are not based on findings of public necessity. Therefore, the importance of the airway or the airport in the federal system is the first criteria; the second criteria is related to the degree of municipal interest in the airport. At some municipally owned airports the federal government also owns part of the property and leases the land to the municipalities; or, it may even own some of the buildings at the airport; and we would consider the degree of joint investment in the airport. Finally there is the point of civil and military use and the importance to the military system. Obviously, where an airport was of major importance for continuing military use, this importance would result in placing a greater degree of responsibility on us. We think that given the existence of some court decisions which would set the plan for compensation at the major airports, plus the weighing of the factors I have described, it would not be difficult for us to work a reasonable arrangement in each case with municipal airports in discussions with the municipalities.

By Mr. Green:

Q. Then your point is that you would be making agreements with municipalities as to how much they are to pay?—A. That is correct.

Q. And that would be arrived at by the amount of relevant use of the land?—A. That is correct.

Q. The legal claim will be against the dominion government?—A. That is right.

Q. And the municipality would not appear in the picture so far as any court action is concerned?—A. That is right. Our zoning, however, would depend on proceeding within the regulations in respect to the zoning power given to us after having made such an arrangement with the municipality.

Q. Then, in the case of Vancouver, in the case of Sea Island airport, you would not zone that unless they agreed to pay a certain proportion of damages that might be awarded to a civil claimant?—A. That is correct.

Q. And that is the means of determining all these things?—A. Yes.

By Mr. Graydon:

Q. May I ask a question there, Mr. Chairman? One thing that comes to my mind is this, going back to the Malton situation. That airport, of course, is known as the Toronto municipal airport but it is situated in another municipality altogether. Now, what is the picture with respect to such an airport?—A. The statement I have made applies to municipally operated airports, not to airports operated by the federal government.

Q. Yes, I know, but when we speak of the Toronto airport, in that case, what you have said will not apply?—A. No.

Hon. Mr. CHEVRIER: No, it is not a municipally owned airport.

Mr. GRAYDON: But it has been referred to from time to time as the Toronto municipal airport.

Hon. Mr. CHEVRIER: Under no conceivable situation would it apply in the case of the Malton airport.

By Mr. Green:

Q. What particular municipal airports would they supply to? Sea Island is outside the city of Vancouver?—A. Only to certain of the larger ones, for instance the ones at Brandon, Calgary, Edmonton, Fredericton, Medicine Hat and St. John, and Vancouver.

Q. Are there any additional cities which would share in payment of this damage?—A. Those are the outstanding ones. There are some smaller municipal airports.

Mr. NICKLE: What about the Calgary airport? That is outside of the city of Calgary itself?

Mr. GILLIS: Before we pass this bill, how costly a proposition is it to take a case to the Exchequer Court? To the average man when you talk about going to the Exchequer Court, it usually presupposes a lot of money. Mr. Green said a moment ago that the cost is very great. I have heard that argument used on other occasions against legislation that might have to be finalized in the Exchequer Court. I wonder if the minister or someone could tell us what is the procedure in order to go through that court and what it costs.

Hon. Mr. CHEVRIER: We might have counsel comment on that.

Mr. MUTCH: Well, in the average case it might be as much as \$400.

Mr. GILLIS: My information is that unless the government pays the costs it takes a lot of money to take a case to the Exchequer Court.

Hon. Mr. CHEVRIER: Of course, if a claimant wins a case, the cost is paid by the crown.

Mr. GILLIS: Well, what is the cost?

Hon. Mr. CHEVRIER: Of course, he would have to pay if he lost. Perhaps counsel would care to give us some information on that.

Mr. MATTHEWS: It is rather difficult to say what the legal costs are. For instance, it depends on the solicitor, it depends on the number of witnesses and things like that. In the Exchequer Court procedure it is much easier now to file a petition of right and get right down to trial, particularly in expropriation cases where the government usually pays the costs. And I presume in cases of damage arising out of these regulations the government would also in most cases pay the costs, unless the claimant was very unreasonable.

Mr. GRAYDON: I think what Mr. Gillis wants to know is whether or not the loser in a law suit has to pay any part of the rent of the court house building, or any part of the salaries of the judges. He does not.

Mr. GILLIS: In any event, it is the same as in any other court.

The CHAIRMAN: Shall subsection 9, as amended, carry?

Carried.

Shall the preamble carry?

Carried.

Shall the title carry?

Carried.

Shall I report the bill?

Carried.

The committee adjourned.

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HOUSE OF COMMONS

Sixth Session—Twenty-first Parliament, 1952

Government
Publications

STANDING COMMITTEE

ON

RAILWAYS, CANALS AND TELEGRAPH LINES

Chairman—H. B. McCULLOCH, ESQ.

MINUTES OF PROCEEDINGS AND EVIDENCE

No. 7

BILL No. 239 (R6 of the Senate)

An Act respecting The Burrard Inlet Tunnel and Bridge Company

THURSDAY, MAY 29, 1952

WITNESS:

Mr. R. C. Merriam, Counsel for The Burrard Inlet Tunnel and Bridge Company.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1952



ORDER OF REFERENCE

RAILWAYS, CANALS AND TELEGRAPH LINES.

FRIDAY, May 23, 1952.

Ordered,—That the following Bill be referred to the said Committee:
Bill No. 239 (Letter R-6 of the Senate), intituled: "An Act respecting
The Burrard Inlet Tunnel and Bridge Company".

Attest.

LEON J. RAYMOND,
Clerk of the House.

REPORT TO THE HOUSE

THURSDAY, May 29, 1952.

The Standing Committee on Railways, Canals and Telegraph Lines begs
leave to present the following as a seventh Report.

Your Committee has considered Bill No. 239 (R-6 of the Senate) intituled:
An Act respecting the Burrard Inlet Tunnel and Bridge Company and has
agreed to report same without amendment.

A copy of the evidence adduced in relation to the said bill is appended
hereto.

All of which is respectfully submitted.

H. B. McCULLOCH,
Chairman.

MINUTES OF PROCEEDINGS

HOUSE OF COMMONS, Room 277,
THURSDAY, May 29, 1952.

The Standing Committee on Railways, Canals and Telegraph Lines met at 10.30 o'clock a.m. The Chairman, Mr. H. B. McCulloch, presided.

Members present: Messrs. Bonnier, Carroll, Carter, Cavers, Conacher, Darroch, Follwell, Gourd (*Chapleau*), Green, Hodgson, James, Macdonald (*Edmonton East*), McCulloch, McIvor, Mott, Murray (*Cariboo*), Nixon, Noseworthy.

In attendance: Mr. A. Laing, M.P. and Mr. R. C. Merriam, Q.C., representing Mr. D. K. MacTavish, Q.C., Parliamentary Agent, counsel for the petitioners.

The chairman informed the Committee of the sudden demise on the evening of May 27 of Mr. A. L. Burgess, Assistant Chief of the Committees and Private Bills Branch, who had, during this session, occupied the functions of Clerk of the Committee. After the Chairman had paid tribute to the late Mr. Burgess the members present and all attending before the Committee stood in silence for thirty seconds in memory-homage to the deceased.

Mr. Green, of the Committee, also paid tribute to the late Mr. Burgess and moved, and it was agreed, that the Committee's expression of sympathy be formally transmitted to the widow and daughter of the deceased.

The Committee considered clause by clause Bill No. 239 (R-6 of the Senate), intitled: "An Act respecting The Burrard Inlet Tunnel and Bridge Company."

Mr. Merriam was asked questions relating to the said Bill.

Mr. Laing, M.P. in the absence of Mr. Sinclair, M.P., sponsor of the Bill, also addressed the Committee by outlining the purpose behind the Bill.

On motion of Mr. Carroll it was agreed that the day's verbatim report of the proceedings and of the evidence adduced be printed.

The preamble, clauses 1, 2 and 3 and the title of the Bill were severally adopted and the Bill ordered to be reported without amendment to the House.

At 11.00 o'clock a.m., the Committee adjourned to the call of the Chair.

ANTOINE CHASSE,
Clerk of the Committee.

THE LATE A. L. BURGESS, ESQUIRE**Assistant Chief, Committees and Private Bills Branch**

MAY 28, 1952.

10.30 a.m.

The CHAIRMAN: Gentlemen, we have a quorum. First, I would like to speak about the late Mr. Burgess who passed away on Tuesday night. He was a great help to us in this committee and a great help to me, telling me just what to do as things passed along.

Mr. Burgess was appointed assistant chief of Committees and Private Legislation branch just a week ago, and his passing away is very sad and I think that we all should stand for thirty seconds in memory of Mr. Burgess. —(A thirty seconds' silence observed.)

Mr. GREEN: Mr. Chairman, before we proceed with our business, I think perhaps it would be a nice idea if we moved a vote of sympathy for Mr. Burgess' widow and daughter. He has been clerk of this committee on many occasions and also I have been on other committees on which he was clerk, and he always rendered friendly and efficient service. I do not believe we could have had more help from anyone than we have had from Mr. Burgess.

In addition to the service he has rendered here he also served in the forces in both world wars, and I think his life has been one which has been very well invested and he has made a great contribution to his country.

I am quite sure that all the members would join in expressing a word of sympathy to Mrs. Burgess and her daughter and also a word of admiration for Mr. Burgess.

EVIDENCE

The CHAIRMAN: Bill No. R6, an Act respecting the Burrard Inlet Tunnel and Bridge Company. Mr. Merriam is here. Are there any questions which anyone wishes to ask Mr. Merriam?

Mr. R. C. Merriam, Q.C., Counsel for Burrard Inlet Tunnel and Bridge Company, called:

The WITNESS: Mr. Chairman and gentlemen, one or two brief words. The bill is in respect of a bridge in Vancouver which is known as the Second Narrows bridge. It was built some twenty-five years ago. I think the actual date of completion was in October 1925, and it has, of course, been in existence ever since. It has had many tribulations, one of which was that during the course of its history the centre span through no fault of the bridge construction was destroyed. A new one has been built and the bridge is actively used.

The bridge is owned by four municipal corporations. There is the Corporation of the District of North Vancouver, the Corporation of the City of North Vancouver, the Corporation of the District of West Vancouver and the City of Vancouver, and the majority of the bonded indebtedness of the company is held by the Corporation of the District of North Vancouver and the Corporation of the City of North Vancouver, so that the municipalities are the ones who are really primarily interested in the operation of this bridge.

Now, as their Act presently stands, the mayor or the reeve, as the case may be, of each of these corporate bodies is automatically a member of the board of directors of the company which owns and operates the bridge. Because of the very heavy duties—and duties that are continually increasing in respect of the position of mayor or reeve of any municipality—it was felt desirable that the council of each of the municipalities should be given the right to name one of the councillors rather than be limited to naming the mayor to serve on the board of directors and that is the main purpose of this Act and is contained in section 1, which amends section 7 of the original Act.

Now, that does not mean that the mayor cannot be appointed. It merely means that if he feels that he is too busy with his municipal duties or his council feel that one of the other councillors probably has more time to devote to this, that they have the right to appoint that individual to serve on the board of directors.

Section 2 has to do with tolls. This is a toll bridge and section 2 specifically authorizes the company to charge, subject to the approval and the overriding jurisdiction of the Board of Transport Commissioners; in other words, the final authority is vested in the Board of Transport Commissioners. That is not new in this sense, that the original Act in an overriding section makes the provisions of the Railway Act applicable.

One of the provisions of the Railway Act is that tolls may be charged on any bridge over which a railway passes, and as this is a railway bridge in addition to having a roadway for pedestrians and vehicular traffic, tolls have been charged. However, since the company was going to parliament in any event to have this Act amended, it was felt that it might be desirable to include a section making it quite definite that the company had the unquestioned right to charge these tolls in so far as pedestrian traffic and vehicular traffic was concerned, subject, as I say, to the approval of the Board of Transport Commissioners.

Section 3, which amends section 14 of the Act, is merely a corrective section. In the original Act the Canadian National Railways was referred to as the Canadian National Railway Company which, of course, is not its proper designation. The Pacific Great Eastern Railway was improperly described as the Pacific Great Eastern Railway Company, and finally the National Harbours Board has been substituted for Vancouver Harbour Commissioners. Those are small obvious corrections designed to include the correct and proper names of these various bodies in the Act.

The reason for the change to the National Harbours Board is that the Vancouver Harbour Commissioners has been superseded by the National Harbours Board as the appropriate body.

That, gentlemen, is the substance of the bill.

By Mr. McIvor:

Q. They have been charging tolls up to now, have they?—A. Yes.

Q. There is no change?—A. There is no change, no.

By Mr. Carroll:

Q. Excepting that perhaps the nature and amounts of tolls are placed under the jurisdiction of the commission?—A. They were before, sir. In the Railway Act tolls are also subject to the jurisdiction of the Board of Transport Commissioners.

By Mr. Green:

Q. As I understand it, Mr. Merriam, the power to levy tolls—

Mr. CARROLL: Would you excuse me, Mr. Green, for a moment? I want to make a motion that the proceedings of this committee be published. I understand there is some question as to whether or not we have that right.

The CHAIRMAN: All in favour of the motion?

Mr. GREEN: Mr. Chairman, on that point I think we decided when we first met that our proceedings would be printed and I do not believe there is any necessity for passing a motion each time a bill comes up in the committee. We have had other bills before the committee, including private bills, and it is a new procedure to me that we have to move when each bill comes in to have it printed.

The CHAIRMAN: It says here:

Resolved that the committee recommend that it be empowered to print from day to day such proceedings and evidence as may be ordered by the committee.

Mr. CAVERS: I think I made the motion.

Mr. GREEN: I understood that all our proceedings were to be printed.

The CHAIRMAN: Any questions you would like to ask of Mr. Merriam?

By Mr. Green:

Q. Mr. Merriam, at the present time the right to levy tolls on the bridge in respect of traffic other than rail traffic comes from the Railway Act itself?—A. That is correct, Mr. Green.

Q. There is no section of the Burrard Inlet Tunnel and Bridge Company Act which provides for the levying of tolls?—A. No, not specifically except by reference to the Railway Act.

Q. And now you are asking that it be set out definitely that the company can charge tolls on highway traffic?—A. That is right.

Q. Is there any danger of that having the effect of depriving the company of the right to charge tolls on the railway?—A. I do not think so, Mr. Green, because the section is worded:

In addition to its right to charge tolls under the provisions of the Railway Act.

In other words, any right which the company may have to charge tolls with respect to railway traffic under the provisions of the Railway Act is retained not only in this toll section but also in the original section of the Act which made the provisions of the Railway Act applicable and which is not being changed in this amendment.

Q. Are your new provisions for charging a toll on highway traffic more extensive than the rights you get under the Railway Act?—A. It is doubtful, Mr. Green. That is why it was felt that they should be made specific here. Under the Railway Act there was a question—I do not think it had ever been litigated or argued very seriously—but there was some question in the minds of the people running the bridge as to whether or not that authority extended to automobile traffic.

Q. Well, are there any other bridges in Canada over which there is a railway as well as a highway where this condition has arisen? There must be many similar bridges in Canada and I would think there must be some established law as to charging tolls?—A. None I can think of offhand, Mr. Green. I believe the Act sets out specifically authority somewhat as this Act is asking to do.

Q. What I do not understand about it is that you are taking the power to levy tolls but then those tolls have to be approved by the Board of Transport Commissioners apparently?—A. Yes, that was merely to put a limitation on the authority given to the company in so far as the amount of the toll is concerned.

Q. Then, also the Board of Transport Commissioners decides on the traffic regulations, such as the speed of vehicles going over the bridge. How on earth do they get into that picture?—A. I think they come in through precedent more than anything else, Mr. Green. The precedent has grown up that when a bridge is authorized to charge tolls the amounts of those tolls are set by the Board of Transport Commissioners.

Q. Won't that mean that the Board of Transport Commissioners will be setting a speed limit on a bridge in Vancouver which will supersede any speed limits that are set by the provincial government?—A. Well, I am not sure, Mr. Green, that the Board of Transport Commissioners would have the authority to lay down rules and regulations as to speed and volume of traffic and so on.

Q. Well, you have got it right in your bill. In section 2, the new section 4, you say:

Make by-laws, rules or regulations respecting the traffic mentioned in subsections 2 and 3 including the speed of vehicles.

—A. I think actually, Mr. Green, your point is well taken. I would imagine that in practice the Board of Transport Commissioners would undoubtedly conform to provincial laws in that regard.

Q. It does seem to me that it is going to be very confusing if you have all over the province of British Columbia a speed set for bridges and then you have this particular private bill giving this company the power to set a speed of their own on that bridge subject to the jurisdiction of the Board of Transport Commissioners who are not in a position to know anything about the requirements of speed for a bridge of that type three thousand miles away and I do not quite understand why you ask for that "including the speed of

vehicles"?—A. Well, I would think that before the Board of Transport Commissioners made any order as to speed or anything else in connection with traffic, they would have to be satisfied as to what the pertinent local rules and regulations regarding other traffic were.

Q. I do not think it is any of the business of the Board of Transport Commissioners to set speed limits on motor vehicles out in British Columbia and yet that is what this bill will do if it is approved in its present form.—A. I do not think the company would object in any way to having that section struck out.

Q. Mind you, I am not opposing the bill but I do think that is only going to lead to complications and that we should not try to take control through a private bill of a speed limit in a province.

Mr. LAING: Mr. Chairman, may I have a word?

The CHAIRMAN: Yes.

Mr. LAING: My presence here is due actually to the fact that Mr. Sinclair is in Washington and he asked me to look after this bill when he was away.

Now, Mr. Green and I are two of the few people who know something about the Second Narrows bridge and I know Mr. Green will agree with me that there would never be any thought of permitting a faster speed limit on that bridge, knowing the conditions of the roadways and the width of the roadways, in excess of that permitted in the adjoining municipalities.

I ask him to bear this in mind, that the shareholders of this company are exclusively the four municipalities touched and, of course, the prescribed speed limits and control of traffic would conform with their by-laws.

I think you would agree that that would be the situation. Our traffic in Vancouver is controlled by city by-law which supplements a provincial Act respecting speed which is thirty miles per hour in organized districts of that nature. The provincial speed limit today is thirty miles per hour in all the municipalities concerned in this company and I think Mr. Green would agree that the regulations which the company will ask the Board of Transport Commissioners to approve would be the regulations that conformed to the speed limit in the four municipalities.

After all, this bridge is in a different position than any other bridge that we have in that whole area because it is a public company owned by the municipalities; it is not a provincially owned bridge. Responsibility for convictions and so on rests with the municipalities as in other bridges. I think it is a median line, is it not, Mr. Green? The police of the city of Vancouver have the responsibility for half the bridge and the police of the municipality of North Vancouver have the responsibility for the other half. I do not know how else it could be carried on in the case of a company owned and controlled such as this one is, except by application for approval of the traffic regulations to the Board of Transport Commissioners.

Mr. GREEN: Does the Board of Transport Commissioners control traffic speed regulations in any other case? Perhaps some of the other members of the committee know. Does the Board of Transport Commissioners set speed limits in any other case in Canada?

Mr. CAVERS: Mr. Green, on that point all I know is this: in the area from which I come we have a bridge crossing the Welland ship canal at the Queen Elizabeth Way. The speed limit on the Queen Elizabeth Way set by the Ontario government is fifty miles per hour, but there is a speed limit on the bridge itself of twenty miles per hour and I assume that that speed limit is set by the Board of Transport Commissioners.

Mr. GREEN: Of course, if they are doing that in other cases I have no objection.

Mr. CAVERS: The position in this case is this, there is a provincial four-lane highway on both sides but it would be very impracticable and unsafe to permit traffic to cross the bridge at fifty miles per hour and when they come to either side, they slacken speed to twenty miles per hour until they have reached the bridge and then open out on the wider part of the highway at a greater speed.

Mr. GREEN: That is probably set by the Department of Transport.

The CHAIRMAN: Shall the preamble carry?

Carried.

Shall clause 1 carry?

Carried.

Shall clause 2 carry?

Carried.

Shall clause 3 carry?

Carried.

Shall the title carry?

Carried.

Shall the bill carry?

Carried.

Shall I report the bill?

Carried.

—The committee adjourned.



